

GI 5238-DIV

## IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant : James Keith and Paul Schendel

Application No. : 08/495,724 Examiner: Kemmerer

Filing Date : June 27, 1995 Art Group: 1646

For : Method of Using IL-11 For Treating Various Diseases

Hon. Commissioner of Patents  
and Trademarks  
Washington, D.C. 20231

FAX RECEIVED

SEP 11 1998

GROUP 1600

## RESPONSE TO RESTRICTION REQUIREMENT

In response to the Restriction Requirement mailed on March 26, 1998, Applicants provide the following remarks. Because election is required, Applicants hereby elect the claims of Group I (1-5). However, the Restriction Requirement is traversed for the following reasons.

The Examiner has required election between claims 1 through 5 and claims 7 through 27. Applicants traverse this requirement because Claim 2 is generic to claims 7 through 27. Under the M.P.E.P., Applicants are permitted to claim a reasonable number of species in a single application. In fact, the Code of Federal Regulations and the M.P.E.P. explicitly state that the presence of a linking generic claim, such as claim 2, prevents restriction, even if otherwise proper. See 37 C.F.R. §1.141; M.P.E.P. §809.03. Thus, the Restriction Requirement is improper and should be withdrawn. Applicants request that the Examiner withdraw this requirement.

I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail in an envelope addressed to: Commissioner of Patents and Trademarks, Washington, D.C. 20231 on 4/23/98 (Date of Deposit)

Steven R. Lazar

Name of Attorney for Applicant

Signature

4/23/98  
Date of Signature